

From the Chief Executive

Sarah Albon
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Sent via email

4th June 2020

Rt. Hon. Stephen Timms MP
Chair of the Work and Pensions Select Committee
House of Commons
London
SW1A 0AA

Dear Mr Timms,

FURTHER INFORMATION FOLLOWING THE HEALTH AND SAFETY EXECUTIVE (HSE) EVIDENCE SESSION (12 MAY 2020) ON IT'S WORK DURING THE CORONAVIRUS OUTBREAK

Thank you for your letter of 20th May 2020, in which you have summarised the additional information HSE agreed to provide, during the committee session on 12th May 2020, and have raised a number of additional points. My previous response, dated 20th May 2020, dealt with those points raised the committee and this letter therefore deals with the additional points that you have raised, which I have grouped under the following headings:

A. Investigations:

- *In general.*
- *Care homes:*
 - *Health and safety assessments in care homes in recent weeks;*
 - *Provide the committee with the number of inspections of care homes that have been undertaken.*

B. HSE funding – additional funding of up to £14 million.

C. Family and Maternity Action.

D. The reporting of exposure to COVID - 19 and the reporting of fatalities from that exposure RIDDOR data.

E. Personal Protection Equipment

I would also like to take the opportunity to clarify a point raised by Mr Temple during the evidence session, on who is responsible for reporting an NHS employee who has died from COVID – 19 while performing their duties.

I can confirm that the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR) 2013 places a duty on the responsible person (in the case of employees, their employer) to report cases of death due to occupational exposure to coronavirus to the relevant Enforcing Authority. There is no such requirement under RIDDOR for a report to be made by a hospital treating a patient who subsequently dies from Covid-19.

Consequently, I respectfully request that the record of the hearing is corrected to state that *“the statutory reporting duty to report under RIDDOR lies with the employer in relation to a report concerning an employee”*.

HSE's responses to all these points are in the attached Annex.

I thank you for your interest in HSE and look forward to working with and assisting the Committee in the future.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Sarah Albon', with a stylized flourish at the end.

Sarah Albon
Chief Executive, Health and Safety Executive

HSE RESPONSES TO FURTHER QUESTIONS RAISED BY THE WORK AND PENSIONS SELECT COMMITTEE:

A. INVESTIGATIONS:

How many HSE inspections related to the coronavirus outbreak have been conducted in each of the last 6 months? Please set out figures for the Sector of work to which the inspection is related, the outcomes of the inspections, and any measures subsequently imposed. Please also include details of inspections relating to care homes in your response.

Physical inspections of premises, whilst an important part of HSE's toolkit, are simply one part of a much wider piece of work that goes on within the organisation. For example, members of the public and employees are able to submit a concern to HSE in relation to unsatisfactory conditions or risk control measures in the workplace; concerns come into the organisation in a variety of ways, with most arriving either via telephone or the online form on our website.

Concerns received are triaged and classified either red, amber or green; those classified green are largely dealt with remotely by our Concerns and Advice Team, whilst amber and red concerns are passed to our field teams. Of these, the majority are resolved remotely, with only a small subset requiring a physical inspection or visit.

Since the start of the Covid-19 pandemic, HSE has received in excess of 6,000 additional concerns from workers (and others) about social distancing and other Covid 19 risk matters. The majority of those cases have been dealt with satisfactorily by our call handling team.

- 2,469 of these cases were for other enforcing bodies e.g. relating to businesses closed under the emergency legislation which is not enforced by HSE – the team have referred these on to the relevant authorities.
- 1,100 further concerns were straightforward and could be handled and resolved at the first point of contact in HSE.
- 2,684 further concerns have been passed to our field teams for follow-up.
- 1,331 of the cases considered so far by our field teams required no further action. In a further 581 cases we provided verbal advice (512) or wrote a letter (69) to the company requiring certain action be taken.
- A small number, 47 concerns, required a physical inspection; following these HSE inspectors served one prohibition notice, wrote to dutyholders on 12 occasions identifying material breaches of Health & Safety law requiring rectification, gave verbal advice on a further 20 occasions and were satisfied with the remaining 14.
- In each instance, where enforcement action in any form is taken (and irrespective of whether the action was taken following telephone/email or physical contact), HSE Inspectors follow up with duty holders to ensure that any necessary remedial action(s)

have been implemented. This 100% check is a level introduced during the pandemic in response to the understandable public concern.

Whilst no physical Covid-19 inspections to HSE enforced Care Home premises were conducted, HSE continues to receive concerns about worker safety issues related to coronavirus in care homes and is actively investigating these.

In respect of Residential Care Homes HSE does not hold this information for Local Authority (LA) enforcement services and has no legal power to routinely gather detailed sector or enforcement action specific data from LAs. Health and safety in residential (i.e. non-nursing) care homes is enforced by Local Authorities (LAs), apart from resident related issues in England – enforced by the CQC or Wales – enforced by the Care Inspectorate Wales. Each LA is an independent health and safety regulator with HSE taking steps to promote LA regulatory consistency. HSE reviews LA activity via a broader annual statistical return and biannual engagement with two LA stakeholder groups.

Health and safety assessments in care homes in recent weeks:

HSE has received 52 concerns from workers in the care sector about how the risk from COVID -19 is being managed. With each concern raised, HSE Inspectors have thoroughly reviewed health and safety arrangements for managing risk from COVID -19 with the duty holder by asking a series of probing questions, as they would during a normal inspection, and if satisfied by the response have updated the person raising the concern.

If satisfactory responses are not obtained, the Inspector may ask to see a specific risk assessment – our records indicate these have been asked for on 3 occasions. One of those was in respect of a concern raised by a pregnant worker, where the circumstances are still under investigation, whilst the other 2 were satisfactory and no further action was required. Of the 52 concerns received, 23 remain under investigation and so reports from these are not yet available.

Provide the committee with the number of inspections of care homes that have been undertaken:

In the past 12 months HSE has inspected 19 care homes and of those 3 were inspected in the past 6 months, the last one being on the 10th March.

As with our answer to part A, health and safety in Residential (i.e. non-nursing) care homes is enforced by Local Authorities; apart from resident related issues in England (enforced by the CQC), or Wales (enforced by the Care Inspectorate Wales). Each Local Authority is an independent health and safety regulator and, whilst HSE takes steps to promote Local Authority regulatory consistency, it has no power to routinely gather detailed sector or enforcement action specific data from Local Authorities. HSE does review Local Authority activity via a broader annual statistical return and biannual engagement with two Local Authority stakeholder groups.

What is your plan for future inspections to be carried out by HSE, including the “spot checks” the Prime Minister described on the 11 May? How will you prioritise the riskiest professions?

HSE has started a programme of interventions to check how businesses are implementing social distancing. Our mechanisms for contacting businesses employ a blended approach, including spot checks carried out both by calling businesses and through on-site inspections.

The intervention programme will include the full range of industries regulated by HSE and target sites are being selected using a range of intelligence sources including analysis of concerns raised with HSE about social distancing.

Please can you also confirm whether the statement attributed to HSE in media reports, saying that HSE will ask companies to “self-police” safety measures instead of carrying out checks, is accurate?

As already stated, HSE is committed to carrying out a range of spot checks and any reports to the contrary are not accurate. The concept of self-regulation is at the core of the system of health and safety regulation in Great Britain. The great majority of businesses are capable of managing risk well, so long as they have access to standards and guidance, such as that published about social distancing by HM Government and Devolved Administrations. Our programme of interventions will provide assurance that businesses are complying with COVID control measures and enable us to target industries and sites where other interventions or inspections are needed to ensure standards are achieved, using enforcement where businesses refuse to comply or fall below the standards expected.

How many businesses choose to close or cease activities, following a complaint being made to HSE about the measures they have in place to respond to the coronavirus outbreak?

HSE has found that, in following up concerns raised early in the lockdown period many businesses had chosen to close since the concern had been raised with HSE. Businesses have told HSE that they chose to close for a number of reasons, including breakdowns in the supply of goods and equipment essential to production, the business not being economically viable in the current climate and because staff had been furloughed.

HSE does not keep records of whether or not a business chooses to stop production as a direct result of an intervention by HSE. The analysis we do have available shows, however, that in the overwhelming majority of cases an HSE intervention has enabled businesses to continue trading with increased confidence.

At the Work and Pensions Committee hearing on 12 May, HSE Chair Martin Temple, who is also a non-executive director of the Sheffield Teaching Hospitals Foundation Trust, said “if a health worker died of a Covid-related illness in, say, one of our hospitals but worked in another hospital where they may well have actually got the illness, it is the hospital that treated them, not the employing hospital, that must make the report”. Is this correct and if so, please can you tell us what the legislative or other basis for that requirement is? Has this been made clear to relevant NHS staff and bodies?

The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR) 2013 places a duty on the responsible person (in the case of employees, their employer) to report cases of death due to occupational exposure to coronavirus to the relevant Enforcing Authority. There is no such requirement under RIDDOR for a report to be made by a hospital

treating a patient who subsequently dies from Covid-19, except where the deceased was an employee of that hospital trust and they are believed to have died as a result of an occupational exposure to coronavirus

Discussions with health trusts and local resident care home operators, to remind them of their duties to report relevant COVID 19 deaths to HSE:

HSE worked with the Department of Health and Social Care (DHSC) so that a reminder and a consistent understanding of the legal obligations for NHS employers to report relevant Covid - 19 deaths under RIDDOR were placed in their internal bulletin on 1 May 2020. A similar message was communicated to the social care sector.

HSE has been informed that a second communication will also be issued by DHSC.

Additionally, the Secretary of State for Health and Social Care, Matt Hancock, seemed to suggest it was the role of NHS bodies to investigate coronavirus related deaths for clinical staff working for the NHS, rather than HSE, during the Health and Social Care Select Committee hearing on 17 April (questions 380-382).¹ Please can you set out for us clearly where responsibilities lie in such cases?

As the independent regulator of workplace health and safety in Great Britain, we will consider all incidents reported to us under RIDDOR. This includes incidents reported to us by NHS Trusts. The reports we receive will be assessed and where they meet our published Incident Selection Criteria (ISC) (<https://www.hse.gov.uk/enforce/incidselcrits.pdf>) will be investigated in line with existing legislation and HSE's protocols.

How proactive has HSE been in telling employers, particularly those most affected—such as the NHS and care providers—about their requirements to report exposure to coronavirus at work, and deaths resulting from such exposure? We would also be grateful if you could provide copies of any correspondence HSE has had with at-risk professions on the RIDDOR reporting requirements?

We first published guidance outlining the general duties on employers to report certain Covid-19 related incidents to HSE under RIDDOR in early April ('[RIDDOR reporting of COVID-19](#)'). This was part of a suite of guidance for employers on health and safety issues specifically relating to Covid-19.

Since the guidance was published, our data analytics show:

- The new 'RIDDOR reporting of Covid-19' content has received **137,000 page views**
- This guidance has been one of the highest-scoring HSE coronavirus pages for **usefulness, with an 87% 'Yes, it was useful' rate** (this is compared to site average of 72% usefulness rating).
- The RIDDOR content has been promoted via our HSE e-bulletins, featuring in the following e-bulletins:
 - HSE Weekly Digest (160k subscribers) on the 8 April, 22 April and 14 May
 - Construction bulletin (198k subscribers) on 17 April

- Bulletin to databases for: Health and Safety Newsletter; Local Government Health & Safety Representatives; Local government, or Lone Working (123k subscribers) on 18 April
- HSE corporate stakeholder bulletin (1.1k targeted stakeholders) on 9 April, 16 April, 23 April and 15 May
- Using social media channels, we promoted the content via Facebook, Twitter and LinkedIn on 6 April.

HSE has had discussions with a number of bodies, including Department for Transport (DfT) and the Department for Health and Social Care (DHSC). Whilst I appreciate the Committee's interest, I am afraid these are subject to legal privilege and therefore cannot be released at this time

What further plans do you have to address the “likely” underreporting of deaths due to occupational coronavirus exposure, as you identified in the evidence given to the Committee?

We have recently undertaken a review of our web- based RIDDOR reporting guidance in response to feedback received. Once the new guidance has been published on our website, we will proactively engage with key sectors to promote this to help ensure that it is consistently understood and applied.

The HSE webpages on RIDDOR set out a requirement to report if “*an unintended incident at work has led to someone’s possible or actual exposure to coronavirus*”. Would a healthcare worker, who was not wearing adequate personal protective equipment, and who was working close to a patient later confirmed as having coronavirus, count as a dangerous occurrence which needs to be reported?

For an accident or incident to be reportable as a Dangerous Occurrence, it must have resulted (or could have resulted) in the release or escape of a biological agent likely to cause severe human infection or illness e.g. coronavirus. A healthcare worker, who was not wearing adequate personal protective equipment, and who was working close to a patient later confirmed as having coronavirus, would not meet the requirements of a Dangerous Occurrence as there was no apparent release or escape of coronavirus.

What is the earliest you will be able to publish the regional and sector breakdown of deaths caused by the coronavirus outbreak?

Information on the number of occupational COVID-19 cases reported by employers to the enforcing authorities in Great Britain, based on statutory RIDDOR notifications (including breakdowns by disease severity, sector, region, enforcing authority and week of report) is due to be published within the next week.

Do you have any plans to work with local authorities to compile concerns about safe working practices to ensure that the Government has a clear sight of coronavirus related workplace risks, and can update guidance and legislation quickly if needed?

HSE continues to work with our Local Authority co-regulatory partners. Our focus is with those Environmental Health Officers involved in frontline regulation of workplace health and safety. Any concerns or issues raised by Local Authority Environmental Health Officers feed into HSE's own intelligence gathering and will inform any HSE input into relevant work being done by other government departments and public health bodies in England, Scotland and Wales.

Measures you have taken against the care homes you are responsible for following the report of a death due to occupational exposure to coronavirus

Investigations have begun into the deaths of employees in nursing homes that have been reported to HSE. These investigations are an early stage and we have not yet taken any formal action, however we will act in line with our published Enforcement Policy Statement and Enforcement Management Model where we find evidence that adequate precautions have not been taken to protect employees from the risks of exposure to coronavirus.

As noted previously, health & safety in Residential care homes is a matter for Local Authorities and therefore HSE has no powers to routinely gather detailed sector of enforcement data in that area.

B. HSE FUNDING – ADDITIONAL FUNDING OF UP TO £14 MILLION.

The Prime Minister announced on 11 May that HSE would receive an additional £14m of funding to help in the response to the coronavirus outbreak. How do you plan to make use of this funding? Do you believe this amount is sufficient for the short-term requirements of the organisation?

The £14m funding will be utilised to aid the public's safe return to work in line with HMT's conditions. Work planned and under consideration includes:

- Establishment of an inbound enquiry service in response to the COVID pandemic which offers advice and guidance to both employers and employees.
- Undertaking proactive compliance spot checks in relation to business compliance with COVID 19 requirements which will help to provide reassurance.
- Recruiting temporary resource to undertake spot checks and physical inspections where highlighted deficiencies in risk assessments requires further reassurance.
- Specialist expertise in infection control to support the development of further guidance in complex social distancing issues and to support investigations into COVID related incidents.
- Working with Local Authorities to ensure consistent standards of regulatory activity.
- Communications activity through multi channels to reach and engage a wider employer audience, reassure employees and the public. The aim is to ensure employers have the right advice and guidance to deliver a COVID safe workplace. It will also help employees feel safe and confident in the knowledge their employer is managing risks posed by COVID in the workplace.

- Targeted scientific and research activities into the effects of COVID 19 in the workplace. This will support the evaluation and development of further control measures in the workplace.

Through a combination of the additional funding and re-prioritising existing resources then HSE considers it has sufficient resources for the immediate term.

In respect of medium and longer-term funding requirements to respond to the coronavirus outbreak, HSE will discuss this with its sponsoring department DWP as part of its response to the next Spending Review.

C. FAMILY AND MATERNITY ACTION

Groups including Working Families and Maternity Action have received calls from expectant mothers who are unclear on their rights, and on the requirements upon their employers to ensure they are safe at work during the pandemic. Working Families have told us that they have heard about cases of employers dismissing pregnant women or placing them on statutory sick pay as a result of the outbreak.

At the session on 12 May, you said the following:

“Employers who cannot put appropriate measures in place to satisfy their risk assessment that the pregnant worker will be safe in the workplace are required under the regulations that provide normal protection for pregnant women in the workplace to suspend them on full pay, in line with the Management of Health and Safety at Work Regulations.”

Do you think that the new “Working safely during coronavirus” guidance issued on 11 May makes these requirements clear enough to employers, and that this part of the guidance is sufficiently prominent?

The health and safety protections for pregnant workers have not changed and HSE provides detailed guidance to help employers understand their responsibilities on making sure the workplace is safe for new and expectant mothers. The ‘working safely during coronavirus’ guidance was developed quickly and is in line with the wider government advice available on Gov.uk. HSE is finalising a more comprehensive suite of guidance and this will link to existing help.

Is HSE doing anything to highlight this guidance to employers, and to help employers to understand what it means for their business?

HSE is providing further, more comprehensive guidance to help businesses manage the risks in their workplace and will include links to the existing guidance for new and expectant mothers <https://www.hse.gov.uk/mothers/index.htm>

How can you ensure that risk assessments, and safety measures put in place, are thorough enough to protect pregnant workers?

There is guidance on how to complete risk assessments and the more comprehensive guidance to support employers will cover the specific issues for pregnant workers, particularly those who are classed as extremely clinically vulnerable. The duty rests on the employer to protect the safety of the pregnant worker. HSE (or LA if applicable) will use its normal regulatory powers when we discover the law has been breached.

Is HSE involved in enforcing the requirement that employers suspend expectant mothers on full pay, if they are unable to create a safe working environment? If so, what are you doing to enforce this?

HSE has received a number of worker concerns raised on this topic. HSE has responded quickly, often contacting employers to remind them of their responsibilities and to make sure pregnant workers are properly supported. HSE has powers to take enforcement action (under Reg 16(3) Management of Health and Safety at Work Regulations 1999) where if the necessary control measures cannot be put in place, such as adjustments to the job or working from home, employers should suspend the pregnant worker on paid leave.

Where HSE identifies employers who are not taking action to comply with the relevant public health legislation and guidance to control public health risks, they will consider taking a range of actions to improve control of workplace risks. For example, this would cover employers not taking appropriate action to socially distance, where possible. The actions the HSE can take include the provision of specific advice to employers through to issuing formal Improvement Notices to secure compliance. Workers can raise a concern through their employee representative, trade union or direct to HSE via our website.

D. REPORTING OF EXPOSURE TO COVID-19 AND REPORTING OF FATALITIES FROM THAT EXPOSURE - RIDDOR DATA:

The '[RIDDOR reporting of COVID-19](#)' webpage content went live on Thursday 2 April (it's been updated four times to date, with a further piece of more detailed content being worked on that is due to be published imminently).

Since 2 April to date, HSE's web analytics and user feedback results show that the new 'RIDDOR reporting of COVID-19' content has received 137,000 page views, one of the highest-scoring HSE coronavirus pages for usefulness, with an 87% 'Yes, it was useful' rate (compared to site average of 72% usefulness rating). The content has been promoted via a number of HSE e-bulletins, generating 17,848 of the pageviews (13% of all views to date).

Using social media channels, we promoted the content via one x post each on Facebook, Twitter and LinkedIn on 6 April and, so far, social media has generated 3.5% of our total pageviews. In addition, an HSE sought the views of stakeholders, to gain business user's perspective of this specific content.

HSE has been working on the most appropriate and meaningful presentation of the data on cases of COVID-19 reported to enforcing authorities under the Reporting of Injuries, Disease and Dangerous Occurrences Regulations (RIDDOR). It is expected that this management information is expected to be published within the next week and updated weekly. Colleagues at Office for National Statistics have been made aware of our intention to publish

to ensure coherency in the information coming out of Government. Once the data is published, we will send the Clerk of the Committee the link via email.

E. PERSONAL PROTECTION EQUIPMENT:

What actions have you taken already to help improve safety conditions for nursing staff, in particular those relating to the availability of PPE?

Where any worker believes there has been a breach of health and safety legislation, they are able to raise a concern with HSE. The Health and Safety Information for Employees Regulations 1989 requires employers to either display the HSE-approved law poster or to provide each of their workers with the equivalent leaflet, both of which set out details of how to raise a concern. Through partnership working with trade unions, raising a concern is a well-known and utilised route. As appropriate, HSE has followed up concerns with employers and continues to do so to ensure relevant guidance is followed. HSE has a range of enforcement powers available to ensure compliance. Where employers have indicated difficulties purchasing PPE/RPE from suppliers, they have been signposted to the appropriate channel to obtain emergency supplies. For example, through local resilience forums or any central government arrangements such as the National Supply Disruption Response.

HSE has also worked actively with the health care sector, including NHS and DHSC, to facilitate procurement and supply of PPE. We have set up a dedicated PPE unit that covers supply chain issues, user standards, and technical assessment and support to supply. We established a process to implement agreement of PPE supply for healthcare workers (HCW) following EU easements on the route to market for PPE specifically for HCW. This includes a 7 day per week access to submit data for technical assessment and HSE agreement of new sources of PPE to be supplied. We also deployed a team to support the logistics and distribution activities to enable large stocks of PPE to be released into NHS settings.

We have worked with the supply chain and other government departments, publishing information to help new manufacturer's and procurers, understand the necessary standards for HCW PPE and to be able to equate international and other national standards to the EU standards we usually depend on.

We have provided training for those involved in procurement of PPE from global suppliers to understand requirements and to assist in identification of reliable and appropriate equipment.

Should health and care workers be going into hospitals or care homes if there is not suitable PPE available for them to use, or if they have not received training on the use of PPE?

The duty rests with the employer to ensure that appropriate PPE/RPE is made available to workers as determined by the relevant guidance and any local risk assessment and that the user is provided with relevant information, instruction and training that may be required to ensure the equipment is used correctly. Employers should exhaust all possible means to obtain PPE/RPE. Where it is not possible to obtain the equipment indicated, employers should consider alternatives. HSE's support to the supply chain has helped NHS settings

understand alternatives that may be used, for example, where it is not possible to obtain FFP3 facemasks, a loose-fitting powered hood could be used.

In many cases, workers will be competent in the use of PPE/RPE as part of their training for their profession and for other circumstances such as infection control. This should be supplemented by any specific training and an employer's monitoring activities to ensure PPE is used correctly. There are also many online sources of information instruction and training available for workers in this respect produced by HSE and other organisations such as Public Health England. This includes videos and posters.

Legal requirements are unchanged as a result of the pandemic and employers have scope to meet their legal obligations.

What more could be done to create a safer working environment for nursing staff?

HSE's role is as the regulator of workplace safety and provides tools to help employers comply with their legal obligations such as guidance. In this respect, HSE continues to provide specific guidance in relation to COVID19 which is available on the HSE website. HSE continues to monitor challenges faced by employers in these unprecedented times and keeps under regular review any further steps that can be taken to assist employers to comply with legal requirements.



Work and Pensions Committee

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From the Chair

Sarah Albon
Chief Executive of the Health and Safety Executive
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20 May 2020

Dear Sarah,

Many thanks for giving evidence to the Committee on 12 May, especially at such a busy time for your organisation.

During the session, we discussed several aspects of HSE's response to the coronavirus outbreak. There were some lines of inquiry on which I wanted to follow up in writing.

Following on from the session, might you please let us know:

1. How many HSE inspections related to the coronavirus outbreak have been conducted in each of the last six months? Please set out figures for the sector of work to which the inspection related, the outcomes of the inspections, and any measures subsequently imposed. Please also include details of inspections relating to care homes in your response.
2. What is your plan for future inspections to be carried out by HSE, including the "spot checks" the Prime Minister described on 11 May? How will you prioritise the riskiest professions?

Please can you also confirm whether the statement attributed to HSE in media reports, saying that HSE would be asking companies to "self-police" safety measures instead of carrying out checks, is accurate?

3. How many businesses chose to close or cease activities, following a complaint being made to HSE about the measures they had in place to respond to the coronavirus outbreak?
4. The Prime Minister announced on 11 May that HSE would receive an additional £14m of funding to help in the response to the coronavirus outbreak. How do you plan to make use of this funding? Do you believe this amount is sufficient for the short-term requirements of the organisation?

5. What are the plans for medium- and longer-term funding requirements for HSE as it responds to the coronavirus outbreak? How much additional funding do you anticipate HSE will need in the coming years?

Groups including Working Families and Maternity Action have received calls from expectant mothers who are unclear on their rights, and on the requirements upon their employers to ensure they are safe at work during the pandemic. Working Families have told us that they have heard about cases of employers dismissing pregnant women, or placing them on statutory sick pay as a result of the outbreak.

At the session on 12 May, you said the following:

Employers who cannot put appropriate measures in place to satisfy their risk assessment that the pregnant worker will be safe in the workplace are required under the regulations that provide normal protection for pregnant women in the workplace to suspend them on full pay, in line with the Management of Health and Safety at Work Regulations

6. Do you think that the new “Working safely during coronavirus” guidance issued on 11 May makes these requirements clear enough to employers, and that this part of the guidance is sufficiently prominent?
7. Is HSE doing anything to highlight this guidance to employers, and to help employers to understand what it means for their business?
8. How can you ensure that risk assessments, and safety measures put in place, are thorough enough to protect pregnant workers?
9. Is HSE involved in enforcing the requirement that employers suspend expectant mothers on full pay, if they are unable to create a safe working environment? If so, what are you doing to enforce this?

We also have some questions about the reporting of coronavirus exposure at work, and the reporting of deaths arising from this exposure. The HSE website explains that RIDDOR (Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013) puts duties on employers, the self-employed and people in control of work premises (the “Responsible Person”) to report certain serious workplace accidents, occupational diseases and specified dangerous occurrences.

We would be grateful for answers to the following questions:

10. At the Work and Pensions Committee hearing on 12 May, HSE Chair Martin Temple, who is also a non-executive director of the Sheffield Teaching Hospitals Foundation Trust, said “*if a health worker died of a covid-related illness in, say, one of our hospitals but worked in another hospital where they may well have actually got the illness, it is the hospital that treated them, not the employing hospital, that must make the report*”. Is this correct and if so, please can you tell us what the legislative or other basis for that requirement is? Has this been made clear to relevant NHS staff and bodies?

11. Additionally, the Secretary of State for Health and Social Care, Matt Hancock, seemed to suggest it was the role of NHS bodies to investigate coronavirus related deaths for clinical staff working for the NHS, rather than HSE, during the Health and Social Care Select Committee hearing on 17 April (questions 380-382).¹ Please can you set out for us clearly where responsibilities lie in such cases?
12. How proactive has HSE been in telling employers, particularly those most affected—such as the NHS and care providers—about their requirements to report exposure to coronavirus at work, and deaths resulting from such exposure? We would also be grateful if you could provide copies of any correspondence HSE has had with at-risk professions on the RIDDOR reporting requirements.
13. What further plans do you have to address the “likely” underreporting of deaths due to occupational coronavirus exposure, as you identified in the evidence given to the Committee?
14. The HSE webpages on RIDDOR set out a requirement to report if “*an unintended incident at work has led to someone’s possible or actual exposure to coronavirus*”. Would a healthcare worker, who was not wearing adequate personal protective equipment, and who was working close to a patient later confirmed as having coronavirus, count as a dangerous occurrence which needs to be reported?
15. What is the earliest you will be able to publish the regional and sector breakdown of deaths caused by the coronavirus outbreak?
16. Do you have any plans to work with local authorities to compile concerns about safe working practices to ensure that the Government has a clear sight of coronavirus related workplace risks, and can update guidance and legislation quickly if needed?

Finally, the Royal College of Nursing (RCN) has published details of their second survey on the use and availability of Personal Protective Equipment (PPE) during the coronavirus outbreak. The survey was open to nursing staff across all settings in health and social care, from 7 May until Monday 11 May. The survey, which received over 5,000 responses, showed the following:

- Over a third (34%) said they felt pressure to care for a patient with possible or confirmed COVID-19 without adequate protection
- Over half (58%) of respondents had raised concerns about PPE, and over a quarter (27%) of these were not addressed at all
- For those in high risk environments, almost 1 in 5 respondents (19%) said there were not enough respirator masks for them to use, with a further 35% concerned about the supply for their next shift. Additionally, over 1 in 5 (23%)

¹ Qq 380-382

had not received training on what PPE to wear and when to wear it, and a quarter (26%) had not received training on donning, doffing and disposing of their PPE

- The survey represents an improvement in many categories from a similar exercise carried out by the RCN, over the Easter bank holiday weekend (10 April to 13 April).

17. What actions have you have taken already to help improve the safety conditions for nursing staff, in particular those relating to the availability of PPE?

Should health and care workers be going into hospitals or care homes if there is not suitable PPE available for them to use, or if they have not received training on the use of PPE? What more could be done to create a safer working environment for nursing staff?

I look forward to your reply. The Committee would be grateful for a response by Thursday 28 May.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Stephen Timms', with a stylized flourish at the end.

Rt Hon Stephen Timms MP
Chair, Work and Pensions Committee